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 CENTRAL FAX CENTER Onyx Dkt No. 1046.ORD  
 USSN: 09/410,462  
 SEP 27 2007 PATENT

## CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, United States Patent and Trademark Office, (Fax No. 571-273-8300) on the date indicated.

*Scary R. Fabrin*  
 Signature

27 September 2007  
 Date of Transmittal

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Williams, A., et al.	Confirmation No. 6889
Serial No.: 09/410,462	Art Unit: 1635
Filing Date: 1 October 1999	Examiner: J.E. Angell
Title: A SINGLE AGENT METHOD FOR KILLING TUMOR AND TUMOR ASSOCIATED ENDOTHELIAL CELLS USING ADENOVIRAL MUTANTS	

## AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

This is in response to the final Office action, dated 27 March 2007, in the above-referenced application. The response date with three-month extension is Thursday, 27 September 2007. A three-month extension of time to respond is requested, and the fee therefore accompanies this paper (\$510.00 at small entity rate). An authorization for payment of this fee accompanies this paper in the Petition for Extension of Time. Also accompanying this paper is a Notice of Appeal. An authorization for payment of this fee accompanies this paper in the Notice of Appeal (\$250.00 at small entity rate). No further fee is believed due; however, the Commissioner is hereby authorized to charge to Deposit Account No. 15-0615 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, with the exception of the payment of the issue fee. Reconsideration of the application in view of the following remarks is respectfully requested.

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## Introductory Comments

## I. Summary of the Office Action.

The Examiner rejected claims 6, 7, 11-13, 15, 17, 18 and 29 under 35 U.S.C. §102(e) asserting that the claims are anticipated by Bischoff, et al. (U.S. Patent No. 6,080,578).

The Examiner rejected claim 22 under 35 U.S.C. §102(b) asserting that the claims are anticipated by Whyte, et al. (J. Virol. 1988, previously of record).

The Examiner rejected claim 23 under 35 U.S.C. §102(b) asserting that the claims are anticipated by Jelsma, et al., (Virol. 1989, previously of record).

The Examiner rejected claims 6-13, 15, 17-20, and 29-34 under 35 U.S.C. §112, first paragraph, asserting that the specification, “while being enabling for: methods of treatment comprising administering a replication competent adenovirus comprising a mutation in an E1A CR2 RB family member binding region directly to the target dividing cells, does not reasonably provide enablement for the full scope of the claims.” (Final Office action, dated 27 March 2007, page 5, emphasis in original.)

These rejections are believed to be overcome in part by the amendments and are otherwise traversed for reasons discussed below.

Claims 26-28 are allowed (Final Office action, dated 27 March 2007, page 19).

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## II. Overview of the Amendments to the Claims.

Claims 6-13, 15, 17-20, 22, 23, and 26-34 are pending in the application. Claims 12, 13, 22-23, and 29-33 are canceled without prejudice or disclaimer. Claims 11 and 15 are amended without prejudice or disclaimer. Cancellation or amendment of these claims is not intended to be an acquiescence in the Office's assessment of those claims in the 27 March 2007 Communication, and applicants expressly reserve the right to bring the subject matter of the original claims again in a subsequent, related application.

The amendments to the claims 12-13 and 22-23 cancel only independent claims 12, 22, and 23, as well as claims 13 and 29-33 that depend from claim 12. 37 C.F.R. §1.116, "Amendments and affidavits or other evidence after final action and prior to appeal," states that "(1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action." Accordingly, applicants submit that the present amendment to these claims should be entered.

The amendments to claims 11 and 15 are discussed further herein below under the section discussing the rejection under 35 U.S.C. §112, first paragraph.

Support for the amendment to claims 11 and 15 can be found throughout the specification, for example, at the following locations: page 5, lines 4-6; pages 13-14; and Examples 3 and 4, pages 18-20.

After entry of this amendment claims 6-11, 15, 17-20, 26-28, and 34 are pending.

The amendments to the claims are presented herein below (after the signature page) in the section titled "Amendments to the Claims."

Accordingly, no new matter has been added by way of this amendment and the entry thereof is respectfully requested.